

MINUTES

UTAH PHYSICIANS LICENSING BOARD MEETING

April 13, 2011

**Room 474 – 4th Floor – 9:00 A.M.
Heber Wells Building
Salt Lake City, UT 84111**

CONVENED: 9:10 A.M.

ADJOURNED: 4:04 P.M.

Bureau Manager:

Noel Taxin

Board Secretary:

Karen McCall

Compliance Specialist:

Debbie Harry

Kent Barnes, Senior Business Analyst

Board Members Present:

James H. Pingree, MD, Acting Chairperson

Lori G. Buhler

James R. Fowler, MD

Daniel J. Parker, MD

John W. Bennion, Ph.D.

Kristen Ries, MD

David D. Byrd, MD

Board Members Absent:

Marc E. Babitz, MD

Kenneth L. Schaecher, MD

Elizabeth F. Howell, MD, Chairperson

Richard W. Chapa, MD

Guests:

Megan Lelowek, Medical Student

Nate Alder

Georgia Geerlings

Robin E. Roberts

Reverend Tom Goldsmith

Perry G Fine, MD

Kriston Stewart, News Media

DOPL Staff Present:

Mark B. Steinagel, Division Director

Irene Woodford, Investigator

Karl Perry, Assistant Attorney General

Ray Walker, Division Regulation & Compliance
Officer

Irene Woodford, Investigator

Rick Norton, Paralegal
Wayne Holman, Chief Investigator

TOPICS FOR DISCUSSION

ADMINISTRATIVE BUSINESS:

MINUTES:

DECISIONS AND RECOMMENDATIONS

The minutes from the February 9, 2011 Board meeting were read.

Dr. Ries made a motion to approve the minutes as read. Dr. Parker seconded the motion. **The Board vote was unanimous.**

APPOINTMENTS:

General Information

Ms. Taxin informed the Board that Judge Eklund would meet with them during the lunch period to complete the discussion of the Dr. John Helfer case.

Ms. Taxin reminded the Board of their recommendation in February to deny Dr. Weitzel's application but to make an appointment if he wanted to meet with them. She stated she contacted Dr. Weitzel who requested a meeting with the Board and he will meet today. She requested the Board to listen to Dr. Weitzel and to speak up with any questions, comments or concerns. Ms. Taxin stated Dr. Weitzel is making efforts to obtain his license by completing the conditions the Board has requested. She refreshed the Board with an update of the concerns with Dr. Weitzel. She stated he had some boundary violations with a patient about 10 years ago, had some substance abuse issues and was charged with a crime in a nursing home and was later acquitted which makes the incident a non issue for the Board/Division. She stated Dr. Weitzel has passed the SPEX examination and is registered for a boundaries course.

Ms. Taxin reminded the Board of their review of the Pine Grove evaluation in February which stated Dr. Weitzel would be safe to practice but also made some recommendations to be completed.

Dr. Ries read the Pine Grove recommendations.

Ms. Taxin stated if the Board believes the application should be denied and Dr. Weitzel should work on some things prior to consideration for relicensing then she will deny the application but the Board should be specific with Dr. Weitzel regarding any programs, courses, etc. they want him to work on or to complete prior to obtaining licensure on probation.

9:20 am to 10:20 am

Dr. Robert A. Weitzel, Discuss Possible Relicensing

Dr. Weitzel and his wife, Georgia Geerlings, met with the Board.

Dr. Weitzel introduced those who came for support, Nate Alder, Robin E. Roberts, Reverend Tom Goldsmith and Perry G. Fine, MD.

Board members and Division staff were introduced.

Dr. Pingree requested Dr. Weitzel start the discussion.

Dr. Weitzel stated he made some serious mistakes early in his career with terrible consequences. He stated he requested to meet with the Board today to ask for their trust in him and to allow him to obtain licensure. Dr. Weitzel explained his indiscretion with an ex-patient who broke off their relationship resulting in hard feelings. He stated the experiences of the last ten (10) years have changed and humbled him but he knows he still has some work to do in dealing with boundary issues. Dr. Weitzel stated he applied for licensure last year and Ms. Taxin informed him he would need to comply with the previous order by completing an evaluation. He stated he had the evaluation which made some recommendations and he agreed with the recommendations. He stated he took and passed the SPEX examination, has signed up for a boundaries course and a records keeping course. Dr. Weitzel stated he will agree to a probationary license with supervision. He stated he would like to work at Valley Mental Health, the Veterans Administration, the Bureau of Indian Affairs or with a similar organization where he can work with others and be monitored. He stated he realizes he will be scrutinized by the public for quite some time due to his criminal charges even though they were dismissed and if given

a probationary license, will be on probation for a long time. Dr. Weitzel explained over the last ten (10) years he has gotten married, dealt with legal issues, held various employment positions and has been selling cars for the last four (4) years but does not want to sell cars forever. He stated he has been involved in attending grand rounds, taking continuing medical education courses, tried to stay healthy and has been taking care of his relationship with his wife. He stated he wants to start a strong medical career now and to deal with issues that he has not yet dealt with.

Dr. Pingree asked if Dr. Weitzel completed a full residency program.

Dr. Weitzel responded yes.

Dr. Pingree asked if Dr. Weitzel has had any drug abuse issues.

Dr. Weitzel responded no. He stated he self reported to the Division his cocaine use years ago and prior to going through a three (3) year diversion program which was successfully completed. He stated he has taken many drug tests which were all negative and he has no desire to take any drugs without an appropriate prescription.

Dr. Ries commented Dr. Weitzel has not practiced for 10 years and psychiatry practice has changed and the medications now being used have changed. She asked if Dr. Weitzel has kept up to date and how.

Dr. Weitzel responded he has taken some courses and scored well on the SPEX. He stated it appears his knowledge is up to date based on his SPEX score.

Ms. Taxin stated she has recently received information regarding residency programs for those who have been out of practice. She stated one program is through the University of Florida. Ms. Taxin stated she could get that information to Dr. Weitzel if he is interested.

Dr. Weitzel responded he would like the information

as he has not been able to locate a residency program.

Ms. Taxin asked if Dr. Weitzel had been Board certified.

Dr. Weitzel responded no. He stated he would be eligible for Board certification if he was working in a licensed position of some type. He stated the Board could make Board certification a condition for relicensing and he would take a course and examinations for recertification.

Dr. Bennion asked if the issue with the former patient has been resolved.

Dr. Weitzel responded he has not dealt with the issue nor had any treatment to resolve the issue. He stated he could do the recommended workshop to work on the issue.

Dr. Weitzel stated he has written out some recommendations for the Board to consider for relicensing him. He distributed his information to the Board. He stated he does not plan to practice in California or Texas but for his own validation he would like to obtain those licenses again. Dr. Weitzel stated he believes he could work at a VA facility as they are in need of practitioners but would need full licensure. He read his statement/request to the Board. Dr. Weitzel stated he does not plan to do any psychotherapy but would be interested in doing medication management.

After discussion with the Board and Dr. Weitzel took place, Ms. Taxin summarized the following:

- 1. The Division will hold Dr. Weitzel's application in pending until the July 13, 2011 Board meeting;**
- 2. Complete the Pine Grove Boundaries Intensive Course by July;**
- 3. Complete the UCSD Physician Prescribing Intensive Course by July;**
- 4. If possible complete or have a plan for a Psychiatric review course(s) to bring his skills current, at least complete one course by July;**

- 5. Meet with the Board July 13, 2011 with an ongoing plan on how to upgrade his psychiatry skills;**
- 6. Provide a letter from the program directors of the courses completed stating he participated, gained knowledge and was successful in the course with any recommendations included;**
- 7. Write an essay on what he learned at the courses and the proposed changes he is going to make in his practice of medicine;**
- 8. At the July 13, 2011 meeting be prepared for the Board to review all information above and to reconsider the application with the understanding the outcome may still be a recommendation for denial or, if successful in 2, 3, 4, 5, 6 and 7 there could be a recommendation for a five year probation with conditions.**

Ms. Taxin stated a probationary Order may include but not be limited to the following:

- 1. Taking and completing an extensive therapy program;**
- 2. Drug testing;**
- 3. Ongoing therapy;**
- 4. Educational courses;**
- 5. A chaperone; and**
- 6. Supervision.**

The Board asked if Dr. Weitzel's wife, Georgia Geerlings, had any comments.

Ms. Geerlings stated she met Dr. Weitzel prior to the first criminal action at an unexpected encounter. She stated that due to the legal issues their life has been difficult but through their marriage she has seen huge, genuine changes from Dr. Weitzel with a desire to be a better person and believes the marriage is important to him. She stated Dr. Weitzel has a sincere commitment to learning, he studied hard, did well on the SPEX examination and continues to spend time reading. Ms. Geerlings stated she was aware of the psychological issue and believes Dr. Weitzel has been honest and addressed that to the Board. She stated it has been difficult to provide for their needs with many different

kinds of employment. She stated she believes their marriage has helped Dr. Weitzel as they have weathered much and are still together.

Dr. Fowler asked how Ms. Geerlings met Dr. Weitzel and her profession.

Ms. Geerlings responded she is a French teacher. She stated she is able to work anywhere but has family in Utah and would like to return. She stated she met Dr. Weitzel through a mutual friend.

Dr. Pingree asked if any of Dr. Weitzel's guests would like to make comments.

Dr. Perry Fine spoke and stated to have a medical license is one of the greatest privileges and an investment not to be squandered. He stated he first encountered Dr. Weitzel's case through newspapers and then was contacted by the prosecutor to testify for the prosecution. He stated Dr. Weitzel was convicted at the trial but the Judge allowed for a second trial and Dr. Weitzel was exonerated of any wrong doing. He stated he believes the care Dr. Weitzel gave his patients was better than many patients receive and he provided a safe environment for the patients who were in a geriatric psychiatric clinic in the last part of their lives. Dr. Fine stated he has full confidence Dr. Weitzel now has the maturity to re-enter the medical field.

Dr. Fowler explained the responsibility of the Board is to protect the public whether it is best for Dr. Weitzel or not. He stated the Board does not have the responsibility of rehabilitating Dr. Weitzel although a probationary license might facilitate rehabilitation which would be a win win situation.

Dr. Bennion commented Dr. Weitzel was acquitted and the Board cannot focus on that issue.

Ms. Roberts urged the Board to keep in mind Dr. Weitzel made some bad decisions but is not a person who will continue to make those decisions.

Reverend Goldsmith commented Dr. Weitzel started

attending his congregation about 15 years ago. He stated he was drawn to Dr. Weitzel's intellect and understanding of theology and they became friends. He stated it has been his privilege to watch, understand and feel the transformation in Dr. Weitzel over the years. Reverend Goldsmith stated he believed something finally went right for Dr. Weitzel when he married Ms. Geerlings.

Due to the time Ms. Taxin suggested the Board dialogue regarding Dr. Weitzel's application after the appointments. Ms. Taxin stated she will contact Dr. Weitzel after the Board makes their recommendations.

Dr. Pingree complimented Dr. Weitzel for having made effort to straighten out his issues.

Dr. Weitzel, Ms. Geerlings and other guests left the meeting.

Following the 3:10 pm appointment the Board returned to the discussion of Dr. Weitzel's applications.

Dr. Bennion made a motion for the Board to reconsider Dr. Weitzel's application on July 13, 2011 with the understanding the Board recommendation could be denial or, there could be a recommendation for a five year probation with conditions if Dr. Weitzel is successful in completing the following:

- 1. Complete the Pine Grove Boundaries Intensive Course by July;**
- 2. Complete the UCSD Physician Prescribing Intensive Course by July;**
- 3. If possible complete or have a plan for a Psychiatric review course(s) to bring his skills current, at least complete one course by July;**
- 4. Meet with the Board July 13, 2011 with an ongoing plan on how to upgrade his psychiatry skills;**
- 5. Provide a letter from the program directors of the courses completed stating he**

- participated, gained knowledge and was successful in the course with any recommendations included; and**
- 6. Write an essay on what he learned at the courses and the proposed changes he is going to make in his practice of medicine;**

Dr. Parker seconded the motion.

The Board vote was unanimous.

10:20 am to 11:20 am

Dr. Charles Dahlquist, Presentation regarding IHC's Policies and Practices on Suspensions of Hospital Privileges

Dr. Dahlquist explained he had read a transcript of a Physician the Board is dealing with and discussed his thoughts with Dr. Bennion who invited him to come speak to the Board regarding IHC's policies and practices on suspensions of hospital privileges in their system. He covered the requirement of reporting credentialing actions to the National Database (NPDB/HIPDB) and the Healthcare Quality Improvement Act of 1986.

Dr. Dahlquist stated if the hospital does not take appropriate action then they could incur liability for damages later. He stated healthcare needs to be safe. He referred to the Healthcare Quality Improvement Act of 1986 as the bible for figuring out the Federal guidelines on what to report. Dr. Dahlquist explained prior to settlements being paid out there is a professional review to determine competence or conduct over a 30 day period and then, if appropriate, action is taken and reported.

Ms. Taxin stated when the Division receives a copy of those NPDB/HIPDB reports she reviews them and sends them to investigations for review. Ms. Taxin stated if there appears to be a pattern of errors investigations will open a case on the practitioner. She stated most reports are just malpractice with payouts. Ms. Taxin stated the reports document the providers name, where they worked, the date of the incident, if there was a payment and space for the licensee to respond.

Dr. Dahlquist commented the report has enough information to explain the issue and the outcome. He

stated reports are sent to DOPL investigator, Irene Woodford, as she may have an open case on the practitioner. He stated before IHC follows up they have the Physician sign a special immunity release from liability for IHC. He stated some rural areas believe it is better to have some type of practitioner, even with discipline versus than none at all.

Mr. Walker stated he routinely asks the investigators how they became aware of information and if the Division received a report from the hospital. He stated it is also routine for the Division not to be informed by the hospital and to need a subpoena to obtain the information.

Dr. Dahlquist gave Mr. Walker a name of someone at IHC to contact for a meeting with the hospitals for discussion regarding reporting to the Division in a timely manner. He stated NPDB/HIPDB also requires hospitals to report to other States.

Ms. Woodford commented there is no peer review requirement in regard to the NPDB/HIPDB reporting.

Dr. Pingree asked why the information is not presented to the Board if NPDB/HIPDB and hospitals report to DOPL.

Mr. Walker responded the report is submitted to the Division because if the issue goes to a hearing the Board needs to act as the jury and could not hear the case if they had already reviewed the information.

Dr. Dahlquist stated the Board does need to be somewhat insulated in order to act as the jury in hearing cases. He stated a practitioner may go around the insurance company and make their own pay out which would not be reported to the databank. He stated the practitioner is required to authorize all payments by insurance but legal fees are not reported. He gave the following example: If St. Mark's has employed Physicians and Nurses and the hospital is sued, the hospital would pay and no one would be notified. He stated the Division and Board have to

rely on the hospital's judgment regarding reporting.

Ms. Woodford voiced frustration that some things that should be reported are not being reported. She stated she is now doing an investigation regarding competency on a practitioner and it has not yet been reported by the hospital.

Ms. Taxin also voiced frustration that people will call her or investigations to ask if a situation was reported and it is not on record, the investigator will then contact the hospital who says they cannot give investigations any information.

Dr. Dahlquist stated some practitioners will relinquish their rights to the hospital privileges rather than have the hospital take action and report the action.

Mr. Walker commented there are also some issues that do not need reporting but the Division should be aware of the issues. He stated there are times when the public is upset that the Division has not dealt with a practitioner but the Division has not heard of the issues or have just found out about the issues.

Dr. Bennion asked if Dr. Dahlquist thinks concern of liability affects what information needs to be shared.

Dr. Dahlquist responded no.

Following additional discussion Dr. Dahlquist commented that practitioners who have had their hospital privileges taken away and request them to be reinstated are usually requested to submit some type of documentation of rehabilitation to rectify their situation if they request to return. He stated there are also some cases that receive a summary suspension for some infraction and those reports he never sees. He stated there are hundreds of malpractice reports. He stated there are some practitioners who could be dangerous to the public if they were given privileges again but those generally do not come back to request reinstatement.

Ms. Taxin commented the Division had a case where we tried and could not obtain information from the hospitals. She stated the Division took action against the practitioner and then the hospitals took minimal action. She stated the concern was if the Division had the additional evidence more action could have been taken.

Dr. Dahlquist requested Ms. Taxin or Ms. Woodford contact him if that situation happens again. He stated he has found by the time a Physician gets to a hearing they are not listening to advice from others and that is why the reporting step is so important as these practitioners are not safe to practice and the patients are not safe. He commended the Division investigations on their thorough investigations.

Dr. Pingree asked if those placed in diversion are reported and if it is public knowledge.

Ms. Taxin responded the information is private and not public.

The Board thanked Dr. Dahlquist for his presentation.

11:25 am

Debbie Harry, Compliance Update

Ms. Harry updated the Board regarding the compliance or non-compliance of probationers.

Ms. Harry reported **Dr. Nathan R. Currier** is currently in compliance with his Stipulation and Order.

Ms. Harry reported **Dr. Gregory R. Hoffman** is currently in compliance with his Stipulation and Order.

Ms. Taxin reminded the Board of Dr. Schaecher's concern regarding Dr. Hoffman not taking responsibility for his actions and appearance to blame the other party.

Ms. Harry reported **Dr. Carl Wurster** is currently in

compliance with his Stipulation and Order. She stated she has not received anything from Dr. Wurster since August 2010 but his Order does not require him to submit any paperwork. She stated he is working as an administrator/medical director.

Ms. Taxin stated Dr. Wurster's Order was minimum. She voiced concerns regarding his lack of working in the profession while on probation but doing some teaching in Idaho. Ms. Taxin stated the Utah Board has a responsibility to touch base with him to be sure he is in compliance.

Dr. Ries asked if Dr. Wurster does not work in Idaho does the Utah Board have authority to extend the probation.

Ms. Taxin responded no. She stated the way the Utah Order is written Dr. Wurster is not out of compliance. She stated she would prefer Dr. Wurster send a form or notice each quarter to update the Board regarding his not working but it is not required.

Dr. Bennion asked if Dr. Wurster could have an unencumbered license without any restrictions if his probation runs out.

Ms. Taxin responded Dr. Wurster does have a restriction in his Order but he could practice in areas that are not restricted.

Mr. Barnes reminded the Board that anything Dr. Wurster provides to Idaho he is required per his Order to provide to Utah and nothing has been received.

Ms. Taxin suggested the Board request quarterly reports in order to better monitor him.

Ms. Buhler asked when Dr. Wurster's Idaho probation is scheduled to be completed.

Ms. Taxin responded the Order was signed in 2007 and was for a minimum of 5 years.

Ms. Buhler asked if teaching in a medical area counts toward his probation time.

Ms. Taxin responded she is not sure. She stated she contacted Idaho a year ago and the person she spoke with did not know if his time counted or not. She stated Utah can only enforce the Utah Order.

Ms. Harry reported **Dr. Kittya N. Paigne** is currently in compliance with his Stipulation and Order. She stated Dr. Paigne's supervisor was confused about the required reports and thought he did not need to get the report in until she called to ask where the reports were.

Ms. Taxin requested the Board to inform Dr. Paigne that Ms. Harry will no longer be calling him or his supervisor as a reminder to send in his reports and he will need to be responsible.

Ms. Harry reported **Dr. Edmund Chein** is currently in compliance with his Memorandum of Understanding (MOU). She stated there charges were filed in California and his probation is scheduled to end in October.

Ms. Taxin stated Dr. Chein implies his California probation was terminated in March 2011 but he has not submitted any documentation to substantiate. She explained the outstanding case is not medical related and if California terminates his probation then Utah could consider termination. She stated at this time the California issue is an allegation and Utah could hold him to his Utah probation until the November 13, 2011 date but not beyond unless he is found guilty.

Ms. Harry reported **Dr. Lisa Morgan** is currently is out of compliance with her Stipulation and Order. She stated Dr. Morgan called to reschedule her appointment for today due to a sick child and her husband being out of town.

Dr. Pingree asked if she could meet telephonically.

Ms. Taxin responded the Board could call her and ask if she would interview over the telephone and if it would not be too much for her but accept what she answers and then schedule her for the next Board meeting. She suggested the interviewer list what Dr. Morgan needs to do to be in compliance. She stated the evaluation was received and the Board may close the meeting for that part of the discussion.

Ms. Buhler asked if Dr. Morgan is working.

Ms. Harry responded no. She stated Dr. Morgan has not worked since March 2010.

Ms. Harry reported **Dr. Michael S. Roundy** is currently in compliance with his Stipulation and Order. She stated the Board should verify if he and his supervisor are friends and clarify in the reports his supervision of Dr. Roundy's boundaries.

Ms. Taxin stated she received a telephone call and the caller might attend Dr. Roundy's appointment as the caller believes he is not being honest with the Board. She stated she discussed the information with the investigator and it appears the complaint information conflicts with what the investigator found. She stated the Board needs to clarify and then decide if it is appropriate for Dr. Smith to supervise. She stated if the Board established Dr. Smith is an appropriate supervisor then Dr. Smith needs to be more specific and give more details on Dr. Roundy's performance and boundaries on the supervisor report.

Dr. Byrd asked if Dr. Roundy has found another position as he reported at the last meeting being dropped off the hospital panels.

Ms. Taxin responded Dr. Roundy was put back on the panels and is still working at the same hospital.

Ms. Harry reported **Dr. Donald N. Harline** is

currently in compliance with his Stipulation and Order.

Ms. Harry reported **Dr. Robert F. Finnegan** is currently out of compliance with his Stipulation and Order. She explained Rett Hansen is employed as the clinic manager and is filling out both the employer report and supervision report but is not a Physician. She stated Dr. Finnegan would like the Board to approve Dr. Nelson to be his supervisor but his resume has not yet been submitted and Dr. Nelson's specialty is not in pain management. Ms. Harry stated she suggested Dr. Nelson contact Ms. Taxin for clarification on supervision.

Ms. Taxin stated she spoke with Dr. Nelson about the expectations and duties of the supervising Physician but she referred Dr. Nelson to Dr. Byrd to discuss the specifics of the appropriate prescribing and his concerns with Dr. Finnegan's methods.

Dr. Byrd responded he did talk with Dr. Nelson and believes he should be approved to supervise Dr. Finnegan.

Ms. Taxin stated she approved Dr. Nelson to supervise but a resume has not been submitted from Dr. Nelson. Ms. Taxin stated Dr. Nelson did complete and submit a chart review report but did not submit the required monthly supervisor report.

FYI

Ms. Taxin informed the Board that Kent Barnes will assist with the probation interviews in place of Ms. Harry as she has an appointment later today.

11:45 am

Dr. Nathan R. Currier, Probationary Interview

Dr. Currier met for his probationary interview.

Dr. Bennion conducted the interview.

Dr. Currier informed the Board he is still at Comprehensive Psychological Services and works

about as many hours as he wants but works only 40 to 45 hours a week. He stated he has been approached to go to a new psych hospital but has turned down the offer.

Dr. Bennion informed Dr. Currier he is in compliance with his Stipulation and Order.

Ms. Taxin stated Dr. Currier's last supervision report was exceptional and that is the type of report the Board wants to see. She complimented Dr. Currier for turning things around and offering quality service to his patient.

Dr. Currier thanked the Board and Ms. Taxin. He stated his supervisor, therapist and wife have been a good support team and they have talked with him about keeping appropriate boundaries.

Ms. Taxin stated it is good to have a peer for support whether a person is on probation or not. She asked if he is reviewing his prescriptions with his supervisor and reviewing the database to be sure his patients are not also going elsewhere.

Dr. Currier responded he has used the database several times especially if it is early for a prescription to be filled and he is trying to educate his patients on how to use prescriptions appropriately. Dr. Currier stated he is able to access the database while he is seeing a patient and tells them if they also go to someone else and he finds out then he will no longer treat them.

Dr. Bennion asked how much longer Dr. Currier will be on probation.

Ms. Harry responded he will be on probation until February 18, 2012.

Dr. Currier thanked the Board for their support and stated the probation process has not been painful for him but has been beneficial.

The Board determined Dr. Currier is in compliance with his Stipulation and Order.

An appointment was made for Dr. Currier to meet again July 13, 2011.

Ms. Harry reminded Dr. Currier to submit his next reports by June 28, 2011.

12:00 pm to 1:00 pm

1:00 pm

Dr. Gregory R. Hoffman, Probationary
Interview

WORKING LUNCH

Dr. Hoffman met for his probationary interview.

Dr. Ries conducted the interview.

Dr. Hoffman reported he is now working about 40 hours a week. He stated he is still at Malilheh clinic for a few hours but does not see a volume of patients there. Dr. Hoffman stated he is also still working at the South Sandy Clinic.

Dr. Ries asked Dr. Hoffman to talk with his supervisor, Dr. Morris regarding being more detailed in his reports.

Dr. Hoffman responded he has asked Dr. Morris to be more detailed.

Dr. Ries stated the Board was unsure Dr. Hoffman understands how serious his violation is and the importance to be supervised appropriately.

Dr. Hoffman responded he is not blasé about his probation. He stated his mother called him after she had read the public minutes from last the last meeting and then she spoke with him about the Board communication which made an impact on him and he has changed his whole way of practice. He stated he self reported the incident to the Division. Dr. Hoffman stated he knows his paperwork was turned in a day late this month. He stated he would not be upset if the Board interviewed all his patients to assist with moving the process along. He voiced concern about Dr. Morris being over worked due to him having to be supervised.

Ms. Taxin commented to Dr. Hoffman in the last meeting it was discussed and Dr. Schaecher and the

Board voiced belief that he was not taking full responsibility for his actions. She stated he needs to understand and acknowledge his behaviors in order to ensure it does not happen in the future. She informed Dr. Hoffman that she and the Board are here to give support and to monitor him and he needs to be sure all his paperwork is submitted on time.

Dr. Ries asked if Dr. Hoffman's mother was upset with the minutes and if she would agree with him making improvements.

Dr. Hoffman responded his mother is a Nurse and yes, she was upset with the perception of him not taking responsibility but would agree he has taken responsibility.

Dr. Ries asked if Dr. Hoffman received prescriptions from Dr. Doug White.

Dr. Hoffman responded yes. He stated Dr. White is his personal physician.

Dr. Hoffman asked when his due date for paperwork will go to quarterly.

Ms. Taxin suggested he meet again July 13, 2011 for that discussion to be sure his report is received before or on time and that it is more thorough. She stated Dr. Morris is the eyes of the Board and the reports assist the Board/Division in assisting Dr. Hoffman to understand his issues and resolve them. She stated Dr. Morris may use his own form of writing the report if he wishes but to attached the Division form. Ms. Taxin voiced appreciation regarding Dr. Hoffman's explanation. She stated she believes it was good his mother said something as she knows him best. Ms. Taxin stated Dr. Hoffman's reports are positive and say he has good boundaries. She stated he made a mistake and is working on correcting it.

The Board determined Dr. Hoffman is in compliance with his Stipulation and Order.

An appointment was made for Dr. Hoffman to meet again July 13, 2011.

1:20 pm

Dr. Carl Wurster, Telephonic Probationary Interview

Dr. Wurster met telephonically for his probationary interview.

Dr. Bennion conducted the interview.

Dr. Bennion requested Dr. Wurster to update the Board regarding his current situation and asked if he is currently working as a Physician.

Dr. Wurster responded he remains disabled and may need another surgery. He stated he would like to get well enough to practice.

Dr. Bennion asked what communication Dr. Wurster has had with the Idaho Board.

Dr. Wurster responded the Idaho Board calls him every year to see if there have been any changes.

Dr. Bennion stated the Utah Board believe it would be helpful to receive an update from Dr. Wurster each quarter to monitor his status.

Ms. Taxin explained Ms. Harry will send him a form to fill out with due dates and if he is not employed he will write no employed in medicine due to health issues.

Dr. Bennion stated the Board should touch base with Dr. Wurster in 6 months.

The Board determined Dr. Wurster is in compliance with his Utah Stipulation and Order.

An appointment was made for Dr. Wurster to meet again October 12, 2011.

1:30 pm

Dr. Kittya N. Paigne, Telephonic Probationary Interview

Dr. Paigne met telephonically for his probationary interview.

Dr. Parker conducted interview.

Dr. Parker asked if there have been any changes in his California probation.

Dr. Paine responded no. He stated he is in the process of applying to California for early termination of the restrictions on his license.

Dr. Parker asked Dr. Paine to keep the Board informed. He stated Ms. Harry has been contacting him to remind him to submit his paperwork. Dr. Parker stated he will now need to be responsible and submit all paperwork on time as Ms. Harry will no longer be calling to remind him. He stated it would be a shame to be out of compliance for not submitting paperwork on time.

Dr. Paine responded his supervisor has said it would be easier for him to submit his reports monthly.

Dr. Parker stated monthly reports are acceptable.

Ms. Taxin requested more information on the reports so the Board knows he is practicing appropriately.

Dr. Paine asked if Ms. Taxin could make contact with his supervisor as Dr. Adams has expressed wanting to speak to someone personally about the reports.

Ms. Taxin responded Kent Barnes, Ms. Harry's supervisor, will contact Dr. Adams.

Mr. Barnes reminded Dr. Paine of the Division being closed on Fridays and Dr. Adams will need to call Monday through Thursday.

The Board determined Dr. Paine is in compliance with his Stipulation and Order.

An appointment was made for Dr. Paine to meet again July 13, 2011.

1:40 pm

Dr. Edmund Chein, Telephonic Probationary

Dr. Chein met telephonically for his probationary

Interview

interview.

Dr. Ries conducted the interview.

Dr. Ries requested Dr. Chein to explain the incident in California that happened after his last appointment.

Dr. Chein explained about receiving a vandalism ticket for puncturing the tires of a man who consistently parks in his parking spot at the apartments. He stated he informed the police he was making a citizens arrest and did not want the man to leave prior to the police arriving.

Dr. Ries asked how it has affected his California license.

Dr. Chein responded his California probation was to be completed the end of March but he believes it is a violation of his probation to have pending action so California did not terminate him yet.

Dr. Ries asked if Dr. Chein has documentation from California regarding having completed his probation. She stated the Utah Board has discussed terminating his Utah probation but would need documentation from California prior to considering termination in Utah.

Ms. Taxin stated Dr. Chein submitted an Order which documents his California probation was not terminated but in the report he also provided it indicates his probation was terminated in March 2011. She requested Dr. Chein to submit official documentation regarding termination of the California probation as the Board could consider terminating the Utah probation.

Dr. Pingree made a motion to terminate the Utah probation for Dr. Chein if he submits information from California documenting he successfully completed the terms of the California Order and is no longer on probation.

Dr. Fowler seconded the motion.

The Board vote was unanimous.

The Board determined Dr. Chein is in compliance with his Utah Stipulation and Order.

Dr. Ries stated if the information is not received then Dr. Chein will meet telephonically again July 13, 2011.

1:50 pm

Dr. Lisa Morgan, Probationary Interview

Dr. Morgan was unable to meet in person. She was contacted to meet telephonically for her probationary interview. Dr. Morgan agreed to meet telephonically.

Dr. Fowler conducted the interview.

Dr. Morgan stated she has not worked in the medical field for about a year and will not be seeking employment in the medical field in the near future. She stated she is planning to look for employment at the end of the summer but is not sure if it will be in medicine.

Dr. Fowler asked if Dr. Morgan has attended AA and/or PIR meetings.

Dr. Morgan responded not yet but has located some meetings she liked and plans to start attending. She stated she attend the Women's Big Book meeting in Sandy and felt comfortable there.

Ms. Taxin reminded Dr. Morgan that she offered her a suspension of her license if she was unable to work or meet requirements of her Order at this time. She explained Dr. Morgan could not practice medicine until the suspension was lifted.

Dr. Morgan responded it might be best to have her license suspended at this time.

Ms. Taxin stated she will draft a document and send it to Dr. Morgan to review and, if she agrees with the conditions of the suspension, to sign and return but Dr. Morgan should call Ms. Taxin if she has any questions prior to signing. She stated Dr.

Morgan must continue calling for drug and alcohol testing until the suspension Order has been approved. Ms. Taxin encouraged Dr. Morgan to continue with the drug and alcohol testing through the suspension period. She encouraged Dr. Morgan to go to support groups and therapy but they would not be required of her with a suspended license.

Dr. Fowler stated the position of the Board is to protect the public and the Board would like to assist Dr. Morgan to get back into practicing medicine if that is her desire. He stated the drug and alcohol testing, therapy and support groups will help her.

Dr. Morgan thanked Ms. Taxin and the Board and stated she will look for the suspension Order in the mail.

2:20 pm

Dr. Michael S. Roundy, Probationary interview

Dr. Roundy did not appear for his probationary interview.

Ms. McCall was requested to check on Dr. Roundy and have him meet July 13, 2011.

2:50 pm

Dr. Donald N. Harline, Probationary Interview

Dr. Harline met for his probationary interview.

Dr. Pinegar conducted the interview.

Dr. Harline reported he was accepted back on the Medicare panels. He thanked Ms. Taxin for writing a letter of explanation and support for him. He stated Medicaid will not consider putting him on panels until after he completes his probation. He stated his patient base is not flourishing but is holding steady.

Dr. Pingree asked if Dr. Ockey is still his supervisor.

Dr. Harline responded yes. He explained he meets every week with Dr. Ockey and they review about 20% of his charts together. Dr. Harline stated he has made some changes based on Dr. Ockey's

recommendations regarding monitoring patients on pain management.

Dr. Pingree asked if most of Dr. Harline's pain management patients are self paying.

Dr. Harline responded yes.

Dr. Byrd stated he reviewed Dr. Harline's database list and there are still a few patients on high doses of medications. He stated high doses of methadone or narcotics could cause heart problems and those types of drugs are easily abused. He stated he documents all patients in his practice and runs toxic screens and the database reports to track the patients.

Dr. Harline responded he does not start patients on Methadone. He stated most patients have been at a pain clinic and he checks them every year. He explained he is also keeping track of his patients on high doses of medications. He stated most are on long acting medications and those patients as well as the patients who can not afford the medications are higher on his radar to check and track. He stated he is doing a lot of injections and nerve blockers.

Dr. Pingree reminded Dr. Harline at his last appointment he had commented he let his APRN go. He asked if Dr. Harline is still working solo.

Dr. Harline responded yes. He stated he is considering contracting with another person to assist with the costs.

Dr. Pingree asked if Dr. Harline is still using his chaperones.

Dr. Harline responded yes, he uses his chaperones 100% of the time.

He stated he will be going to Mississippi in July for the Pine Grove recommended polygraph test. He asked if the doctor contacted Ms. Taxin as there are forms to be filled out.

Ms. Taxin responded no.

Dr. Harline responded the program was advantageous for him. He voiced frustration that Dan Lau and Irene Woodford, investigators, stated it would be six weeks and he was told he needed to stay 12 weeks once he arrived.

Dr. Pingree asked if the length of time was up to Pine Grove.

Ms. Taxin explained Dr. Harline needed a fitness for duty letter and if Pine Grove has concerns they extend the time.

Dr. Harline suggested Orders include a comment that the program may be a 12 week program.

Ms. Taxin asked if Dr. Harline has had any uncomfortable situations arise in his practice or if he has had to set limits with any patients.

Dr. Harline responded no. He stated he believes it is good to have a chaperone so patients don't try to initiate anything. He stated he no longer gets into personal conversations with his female patients.

Dr. Pingree asked what dates Dr. Harline will be going back to Pine Grove.

Dr. Harline responded he is not yet sure of the dates.

Ms. Taxin suggested he try to work out the schedule so he can have the information when he meets with the Board on July 13, 2011. She stated Dr. Harline's supervisor submitted a positive report regarding his practice.

The Board determined Dr. Harline is in compliance with his Stipulation and Order.

An appointment was made for Dr. Harline to meet again July 13, 2011.

Dr. Harline left the meeting.

Dr. Pingree asked if Pine Grove is the evaluation entity Ms. Taxin is now referring people to.

Ms. Taxin responded yes it is one she refers people to as it is a thorough program. She stated there are also other programs she refers to depending on the issues of the licensee.

3:10 pm

Dr. Robert F. Finnegan, Probationary
Interview

Dr. Finnegan met for his probationary interview.

Dr. Byrd conducted the interview.

Dr. Finnegan reported he has been working on lowering the doses of medications for his patients and recommends a methadone program to those who do not want lower doses.

Dr. Byrd asked what strategy he is using to bring patients down.

Dr. Finnegan responded he is now asking patients if they are exercising regularly, using herbs, etc.

Dr. Byrd asked if Dr. Nelson is still supervising.

Dr. Finnegan responded yes.

Dr. Byrd informed Dr. Finnegan that there were a few concerns on his paperwork. He stated the Division received a record review yesterday from Dr. Nelson but a supervisor report was received from Rett Hanson, the clinical manager.

Ms. Taxin explained Rett Hansen completed the report that must be completed by the supervising Physician and she should be completing the employer report. She stated Dr. Nelson still has not sent in his resume and a letter documenting he has read the Stipulation and Order and is willing to supervise, give support and assist Dr. Finnegan in being successful in his probation.

Dr. Finnegan responded he will contact Dr. Nelson and Ms. Hanson and explain the requirements.

Dr. Byrd reviewed the CS database printout on Dr. Finnegan's patients and pointed out there are a few patients still on high doses of Methadone, Oxycodone, Fentanyl and Codeine. He pointed out several other CS's that were a concern to him.

Dr. Finnegan responded some of the patients Dr. Byrd referred to were inherited patients and a few of them he no longer has as patients. He stated he has a lot of patients who suffer from anxiety and the Benzo's work for them. Dr. Finnegan asked the Board for recommendations on bringing patients down to lower doses of CS's.

Ms. Taxin responded Dr. Finnegan is the Physician and should be able to inform and educate his patients on appropriate amounts of medications to manage their pain. She stated he could also inform his patients that he will no longer prescribe more than 90 pills for a specific period. She stated when patients are receiving over 200 pills a month there is a concern.

Dr. Byrd responded patients come in report what they have been taking but the Physician has to take responsibility and say "I'm not comfortable with that and will only prescribe X amount for you." He stated when he has a patient come in and say only Oxycontin will work then he knows there is an addiction problem or at least a red flag to consider an addiction problem. He stated old school is to prescribe more but currently practitioners believe prescribing less is better.

Dr. Pingree asked what percent of Dr. Finnegan's practice is in pain management.

Dr. Finnegan responded about 80% of his practice is for pain management. He thanked Ms. Taxin and Dr. Byrd for their recommendations and stated he is working with his patients to make changes.

Dr. Byrd recommended Dr. Finnegan monitor specific patients heavily, set a limit on how much medication he will prescribe and do not go above that limit, tell his patients it is in their best interest

to move toward less medications, conduct drug screens and make his clinic a safe haven for his patients. He stated if patients are not willing to work with Dr. Finnegan in reducing their medication then Dr. Finnegan should document it in the chart and tell the patient the relationship will not work out. He stated he has a rule that no patient receives a narcotic prescription on their first visit.

Ms. Taxin stated Dr. Byrd said something important regarding if Dr. Finnegan sees a patient is on a dose of medication he not comfortable with then he should not refill the prescription and he should make a change. She stated it is good practice of medicine to make the suggested changes.

Dr. Finnegan thanked Dr. Byrd and Ms. Taxin for the recommendations and stated the clinic has made an effort to be sure their charting is more detailed and complete. He then stated he did a urine test on a patient he has been treating for awhile and the test was positive for Methadone. Dr. Finnegan stated when he talked with the patient she stated he should know she takes Methadone as she goes to Discovery House and she reported it several years ago when she was seeing a different Physician at that clinic. He stated he had no suspicion so they now test all patients at the clinic. Dr. Finnegan asked if he should ask his patients if they are receiving CS's from other practitioners.

Ms. Taxin suggested Dr. Finnegan include on his forms a question asking if they are taking Methadone and if they answer yes he could ask where and then coordinate the service. She suggested Dr. Finnegan inform the patient of his guidelines and if the test shows up again with Methadone then address it with the patient.

Dr. Pingree made a motion to approve Dr. Nelson as Dr. Finnegan's supervisor.

Dr. Byrd seconded the motion.

The Board vote was unanimous.

The Board determined Dr. Finnegan is out of compliance with his Stipulation and Order based on the supervisor report not being submitted from Dr. Nelson and not submitting a letter agreeing to supervise, his having read the Stipulation and Order and not submitting a request for Dr. Nelson to supervise.

An appointment was made for Dr. Finnegan to meet again July 13, 2011.

DISCUSSION ITEMS:

Update on Statute Changes

Ms. Taxin notified the Board of the following Statute changes:

1. House Bill (H.B.) 23, Controlled Substance Modifications;
2. H.B. 66 1 Sub, Health Professional Authority – Death Certificates;
3. H.B. 171 2 Sub, Abortion clinic Licensing;
4. H.B. 243, Occupations and Professions Amendments;
5. Senate Bill (S.B.) 61 2 Sub, Education for Prescribing Controlled Substances;
6. S.B. 129 3 Sub, Licensing of Physician-educators;
7. S.B. 134, Transparency in Health Care Provider Advertising;
8. S.B. 186, Utah Medical Practice Act Amendments; and
9. S. B. 248, Controlled Substance Database Amendments;

Ms. Taxin stated the Medical Assistant language was retained for direct and immediate supervision.

Ms. Taxin stated last year the law passed requiring practitioners with the CS license to take a tutorial and examination for prescribing Opioids and using the database when they renew their licenses, which is almost ready for licensees to complete.

Ms. Taxin asked if the Board had any questions or comments in regard to the Pharmacy Practice Act Rules drafted under R156-17b-310. She asked if the

Board supported the proposed Rule changes.

The Board responded yes.

Ms. Taxin stated she is developing the new application criteria for the Physician Educators as there are two (2) categories. She read the requirements for each category. Ms. Taxin stated she has contacted FSMB and they are working with her to develop a FCVS/ECFMG packet which will be required for licensure. She stated the Board will review the Rules for Physician Educators after they have been written.

She stated the UMA paralleled the MD and DO Laws which no longer requires the DO to complete the SPEX examination if applicants are applying by endorsement if it has been 5 years or more since they took the examinations.

The Board thanked Ms. Taxin for the update.

FYI

Ms. Taxin reminded the Board that she and Dr. Howell from the Physicians Board will be attending the FSMB Conference April 28 through April 30, 2011. She stated they will give a report at the next scheduled Board meeting.

CORRESPONDENCE:

Review Pine Grove Information

Ms. Taxin explained Pine Grove sent a packet of information regarding their programs. She stated she has been sending people to Pine Grove for intensive evaluations. She asked if any Board members wanted to review it.

Dr. Ries requested the information to review.

Review JMR Telemedicine Article

Ms. Taxin stated she believes the Board should discuss the issue of telemedicine during a Board meeting. She stated Utah Law does not allow for telemedicine but there are some practitioners doing telemedicine.

Frances Cain, FSMB & NBME, Letter and Information regarding the Enhanced SPEX through PLAS

Ms. Taxin read Ms. Cain's letter. She explained the letter and information packet is to encourage using PLAS.

No Board action was taken.

FYI

Dr. Bennion asked what happened with the case on Nicola Riley.

Ms. Taxin responded the practitioner is licensed in several States. She stated Utah procedurally does not take action prior to a scheduled hearing for a violation in in another State. She stated Dr. Riley signed a Stipulation and Order and is voluntarily no longer doing abortions in Utah. Ms. Taxin stated any further discussion is inappropriate as the Board would be recused if the there is a hearing in Utah. She stated investigations are reviewing the facts and the Division will take action if violations occurred.

Ms. Taxin stated there are also other cases being investigated.

Dr. Bennion asked how Board members should respond when someone asks them about the specific status of a person or case.

Ms. Taxin responded Board members may contact her and she will forward new complaints to investigations. She suggest they thank the caller for reporting the information but not discuss in depth.

FYI

Dr. Ries and Ms. Buhler commented Ms. Stewart, the news person who attended the meeting today, contacted and gave them a card and stated she needs to contact Board members about some cases.

Board members voiced being uncomfortable discussing cases with the news media.

Ms. Taxin responded Board members may refer Ms. Stewart or other media to Jennifer Bolton the Department media contact person as she will address their questions.

NEXT MEETING SCHEDULED FOR:

Ms. Buhler stated she will absent for the July 13, 2011 meeting and she believes this is her last meeting as a Board member as she has served two (2) terms.

Ms. Taxin and the Board thanked Ms. Buhler for serving on the Physicians Board.

Ms. Taxin commented Ms. Buhler has represented the public in an active manner and will be missed.

The Board noted July 13, 2011 is the date for the next scheduled Board meeting.

ADJOURN:

The time is 4:04 pm and the Board meeting is adjourned.

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

July 13, 2011
Date Approved

(ss) James H. Pingree, MD
Acting Chairperson, Utah Physicians Licensing Board

May 18, 2011
Date Approved

(ss) Noel Taxin
Bureau Manager, Division of Occupational &
Professional Licensing